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ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER	SHIU, HO-T
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/803,684	Applicant(s) AALTONEN ET AL.
	Examiner HO SHIU	Art Unit 2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 March 2008.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-101 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-101 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

1. Claims 1-101 are pending in this application. Claims 1-58, 60-61, 63, 65, 72, and 79-101 have been amended by amendment filed on 03/20/2008.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claims 1-8, 12, 13, 23-30, 34, 35, 45-48, 51, 52, 58-65, 69, 70, 80-87, 91, and 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonnell et al. (US Patent 7,257,386 B1, hereinafter McDonnell) in view of Brown et al. (US PUB 2002/0194205 A1, hereinafter Brown) and in further view of Son et al (US PUB 2002/0026645 A1, hereinafter Son).**

4. With respect to claims 1, 23, 45, 58, and 80, McDonnell discloses a system, terminal, method, computer program product for uploading content comprising: a sender configured to send an upload request, wherein the upload request comprises a request to upload content from the sender to a recipient (column 6, lines 18-32); and a network entity configured to receive the upload request (column 7, lines 11-14) but does not disclose determine an upload schedule relating to at least one of the time or manner of

uploading the content, and wherein the sender is configured to upload the content to the recipient in accordance with the upload schedule.

In the same field of endeavor, Brown discloses wherein the sender is configured to upload the content to the recipient in accordance with the upload schedule ([0028], lines 1-7) but does not clearly disclose .

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of McDonnell with the teachings of Brown in order to efficiently upload content due to bandwidth, time, file size, and various criteria.

However, McDonnell and Brown does not explicitly disclose determine an upload schedule relating to at least one of the time or manner of uploading the content.

In the same field of endeavor, Son discloses disclose determine an upload schedule relating to at least one of the time or manner of uploading the content ([0055], lines 1-4, [0056], lines 1-3, [0057], lines 10-15, local head-end receives a request from content which includes a system manager which is able to selectively request the content based on on/off peak times).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of McDonnell and Brown with the teachings of Son in order to save costs by determining the non-peak hours when bandwidth is cheaper.

5. With respect to claims 2, 24, 59, and 81, the claims are rejected for the same reasons as claims 1, 23, 45, 58, and 80 above. McDonnell does not disclose the sender is further configured to delete the content from memory of the sender after uploading the content to the recipient.

In the same field of endeavor, Brown discloses the sender is further configured to delete the content from memory of the sender after uploading the content to the recipient ([0094], lines 2-5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of McDonnell with the teachings of Brown in order to have full authority/control over content that was meant to be accessed for a short period amount of time, for saving storage purposes, or other general purposes.

6. With respect to claims 3, 25, 46, 60, and 82, the claims are rejected as the same reasons as claims 1, 23, 45, 58, and 80 above. McDonnell discloses instruction based upon state information regarding at least one of the recipient or the sender, and wherein the sender is further configured to receive the state information before uploading the content such that the sender is configured to upload the content based upon the state information (column 7, lines 45-50).

7. With respect to claims 4, 26, 61, and 83, the claims are rejected as the same reasons as claims 1, 3, 23, 25, 58, 60, 80, and 82. McDonnell discloses the sender is

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configured to receive state information comprising at least one of a connectivity, location, actual movement or predicted movement of at least one of the recipient or the sender (column 7, lines 45-50, column 8, lines 40-42).

8. With respect to claims 5, 27, 47, 62, and 84, the claims are rejected as the same reasons as claims 1, 23, 45, 58, and 80 above. McDonnell discloses which the content is uploaded, and wherein the sender is further configured to receive the state information before uploading the content to thereby enable the sender to upload the content based upon the state information (column 7, lines 39-41, lines 45-50).

9. With respect to claims 6, 28, 63, and 85, the claims are rejected as the same reasons as claims 1, 5, 23, 27, 58, 62, 80, and 84. McDonnell discloses the sender is configured to receive state information comprising at least one of traffic on the at least one network or bandwidth available to at least one of the recipient or the sender on the at least one network (column 7, lines 39-41, lines 45-50, column 6, lines 33-40).

10. With respect to claims 7, 29, 48, 64, and 86, the claims are rejected as the same reasons as claims 1, 23, 45, 58, and 80 above. In addition, Brown discloses one instruction defining processing the content, and wherein the sender is further configured to process the content to thereby enable the sender to upload the processed content ([0099], lines 1-5, [0100], lines 4-7).

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11. With respect to claims 8, 30, 65, and 87, the claims are rejected as the same reasons as claims 1, 7, 23, 29, 58, 64, 80, and 86 above. In addition, Brown discloses the sender is configured to at least one of transcode or truncate at least a portion of the content to thereby enable the sender to upload the at least one of the transcoded or truncated portion of the content ([0099], lines 1-5, [0100], lines 4-7).

12. With respect to claims 12, 34, 51, 69, and 91, the claims are rejected as the same reasons as claims 1, 23, 45, 58, and 80 above. McDonnell discloses at least one instruction based upon the content and at least one network over which the content is uploaded, and wherein the sender is configured to upload the content based upon the content and the at least one network (column 6, lines 33-40, lines 55-58).

13. With respect to claims 13, 35, 52, 70, and 92, the claims are rejected as the same reasons as claims 1, 23, 45, 58, and 80 above. McDonnell discloses at least one instruction based upon at least one upload time of the content determined based upon the content and at least one network over which the content is uploaded, and wherein the sender is configured to upload the content based upon the at least one upload time (column 6, lines 33-40, lines 55-58).

14. **Claims 9, 11, 15-20, 31, 33, 37-42, 50, 53-57, 66, 68, 72-77, 88, 90, and 94-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonnell in view of Brown and in further view of Son as applied to claims 1, 7, 8 , 23, 29, 45, 58, 64,**

80, and 86 and in even further view of Kohno (US Pub 2003/0120802 A1, hereinafter Kohno).

15. With respect to claims 9, 31, 66, and 88, the claims are rejected as the same reasons as claims 1, 7, 23, 29, 58, 64, 80, and 86 above. The combination of McDonnell, Brown, and Son does not disclose the sender is configured to break up the upload content into a plurality of portions to thereby enable the sender to upload the portions of the upload content.

However, in the same field of endeavor, Kohno discloses the sender is configured to break up the upload content into a plurality of portions to thereby enable the sender to upload the portions of the upload content ([0068], lines 1-12).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of McDonnell, Brown, and Son with the teachings of Kohno in order for performance on any machine/system/etc. not to suffer since a file is held in memory until the upload is complete which in sense a smaller file will require less memory at a given time.

16. With respect to claims 11, 33, 50, 68, and 90, the claims are rejected as the same reasons as claims 1, 23, 45, 58, and 80 above. The combination of McDonnell, Brown, and Son does not disclose the content includes a plurality of pieces, wherein the upload schedule includes at least one instruction comprising an ordering of the plurality

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of pieces of the content, and wherein the sender is configured to upload at least a portion of the content based upon the ordering of the plurality of pieces of the content.

However, in the same field of endeavor, Kohno discloses the content includes a plurality of pieces, wherein the upload schedule includes at least one instruction comprising an ordering of the plurality of pieces of the content, and wherein the sender is configured to upload at least a portion of the content based upon the ordering of the plurality of pieces of the content ([0114], lines 4-8, [0115], lines 1-7).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of McDonnell, Brown, and Son with the teachings of Kohno in order for the transferring of data to be in sync with one another so that streaming of video, audio, or files of the same nature can be provided to the designated location without having to complexly re-configure the assortment of data received.

17. With respect to claims 15, 37, 53, 72, and 94, the claims are rejected as the same reasons as claims 1, 23, 45, 58, and 80 above. The combination of McDonnell, Brown, and Son does not disclose the content comprises a plurality of data packets, and wherein the sender is configured to send an upload descriptor and thereafter upload the content, wherein at least one of the sender or the network entity is configured to determine if an interruption occurs in uploading the plurality of data packets such that the recipient receives less than the plurality of data packets of the content, and wherein, if an interruption occurs in uploading the plurality of data packets,

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the network entity is configured to recover the content based upon the upload descriptor such that the recipient receives the plurality of data packets.

However, in the same field of endeavor, Kohno discloses the sender is configured to send an upload descriptor and thereafter upload the content ([0069], lines 5-14), wherein at least one of the sender or the network entity is configured to determine if an interruption occurs in uploading the plurality of data packets such that the recipient receives less than the plurality of data packets of the content ([0074], lines 1-3), wherein, if an interruption occurs in uploading the plurality of data packets, the network entity is configured to recover the content based upon the upload descriptor such that the recipient receives the plurality of data packets ([0074], lines 1-15).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of McDonnell, Brown, and Son with the teachings of Kohno in order for the designated recipient to acknowledge that files are missing during transfer due to known/unknown errors/interruptions and so that proper re-transfer of the missing files only will be transmitted again to save time, bandwidth, memory, cost, etc.

18. With respect to claims 16, 38, 54, 73, and 95, the claims are rejected as the same reasons as claims 1, 15, 23, 37, 45, 53, 58, 72, 80, and 94 above. Kohno discloses the network entity is configured to recover the content includes being configured to determine at least one remaining data packet to be uploaded to the recipient to thereby complete uploading of the plurality of data packets of the content,

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and thereafter instruct the sender to send the at least one remaining data packet such that the recipient receives the at least one remaining data packet ([0074], lines 1-15).

19. With respect to claims 17, 39, 55, 74, and 96, the claims are rejected as the same reasons as claims 1, 23, 45, 58, and 80 above. The combination of McDonnell, Brown, and Son does not disclose the content comprises a plurality of data packets, and wherein the sender is configured to upload the plurality of data packets and at least one information packet regarding at least one group of at least one data packet.

However, in the same field of endeavor, Kohno discloses the content comprises a plurality of data packets, and wherein the sender is configured to upload the plurality of data packets and at least one information packet regarding at least one group of at least one data packet ([0069], lines 1-14).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of McDonnell, Brown, and Son with the teachings of Kohno in order for the designated recipient to acknowledge that files are missing during transfer due to known/unknown errors/interruptions and so that proper re-transfer of the missing files only will be transmitted again to save time, bandwidth, memory, cost, etc.

20. With respect to claims 18, 40, 56, 75, and 97, the claims are rejected as the same reasons as claims 1, 17, 23, 39, 45, 56, 58, 74, 80, and 96 above. The combination of McDonnell, Brown, and Son does not disclose the network entity is

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configured to monitor the uploaded data packets to determine, based upon at least one information packet, if an interruption occurs in uploading the plurality of data packets such that the recipient receives less than the plurality of data packets of the content, and wherein, if an interruption occurs in uploading the plurality of data packets, the network entity is configured to recover the content such that the recipient receives the plurality of data packets.

However, in the same field of endeavor, Kohno discloses the network entity is configured to monitor the uploaded data packets to determine, based upon at least one information packet, if an interruption occurs in uploading the plurality of data packets such that the recipient receives less than the plurality of data packets of the content, and wherein, if an interruption occurs in uploading the plurality of data packets, the network entity is configured to recover the content such that the recipient receives the plurality of data packets ([0074], lines 1-15).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of McDonnell, Brown, and Son with the teachings of Kohno in order for performance on any machine/system/etc. not to suffer since a file is held in memory until the upload is complete which in sense a smaller file will require less memory at a given time and also provide information as to what part of the file has been sent to the designated system/device.

21. With respect to claims 19, 41, 57, 76, and 98, the claims are rejected as the same reasons as claims 1, 23, 45, 58, and 80 above. The combination of McDonnell,

Brown, and Son does not disclose at least one of the sender or the network entity is configured to determine if an interruption occurs in uploading the content such that the recipient only receives a portion of the content, and wherein, if an interruption occurs in uploading the content, the sender is configured to receive a length of the received portion of the content to thereby enable the sender to thereafter upload a remaining portion of the content to thereby recover the content such that the recipient receives all of the content.

However, in the same field of endeavor, Kohno discloses at least one of the sender or the network entity is configured to determine if an interruption occurs in uploading the content such that the recipient only receives a portion of the content, and wherein, if an interruption occurs in uploading the content, the sender is configured to receive a length of the received portion of the content to thereby enable the sender to thereafter upload a remaining portion of the content to thereby recover the content such that the recipient receives all of the content ([0074], lines 1-15).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of McDonnell, Brown, and Son with the teachings of Kohno in order for the designated recipient to acknowledge that files are missing during transfer due to known/unknown errors/interruptions and so that proper re-transfer of the missing files only will be transmitted again to save time, bandwidth, memory, cost, etc.

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22. With respect to claims 20, 42, 77, and 99, the claims are rejected as the same reasons as claims 1, 19, 23, 41, 58, 76, 80, and 98 above. Kohno discloses the sender is configured to upload a remaining portion of the content based upon a bit range of the remaining portion of the content ([0074], lines 1-15, [0069], lines 5-8).

23. **Claims 10, 32, 49, 67, and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonnell in view of Brown and in further view of Son as applied to claims 1, 23, 45, 58, and 80 and in even further view of Squibbs et al. (US PUB 2004/0198426 A1, hereinafter Squibbs).**

24. With respect to claims 10, 32, 49, 67, and 89, the claims are rejected for the same reasons as claims 1, 23, 58, and 80 above. The combination of McDonnell, Brown, and Son does not disclose the upload schedule includes at least one instruction defining at least one deadline for uploading the content, and wherein the sender is configured to upload the content based upon the at least one deadline.

However, in the same field of endeavor, Squibbs discloses the upload schedule includes at least one instruction defining at least one deadline for uploading the content, and wherein the sender is configured to upload the content based upon the at least one deadline. ([0061], lines 10-17, [0063], lines 21-24).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of McDonnell, Brown, and Son with the teachings of Squibbs in order to ensure if a file cannot be transferred, it will

not prevent other files from transferring because of constant re-transferring of the same file and also to accommodate non-stationary users transferring files/content while moving from one location to another that incorporate the ability to let users transfer files as needed so that the transfer of file/files will be transferred before the user moves out of the incorporated transfer area.

25. Claims 14, 36, 71, and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonnell in view of Brown and in further view of Son as applied to claims 1, 23, 58, and 80 and in even further view of Kobayashi et al. (WIPO # WO/2003/026216, hereinafter Kobayashi).

26. With respect to claims 14, 36, 71, and 93, the claims are rejected for the same reasons as claims 1, 23, 58, and 80 above. The combination of McDonnell, Brown, and Son does not disclose the sender is further configured to receive a trigger to send an upload request before sending the upload request, and wherein the sender is configured to send the upload request in response to the trigger independent of interaction from a user of the sender.

However, in the same field of endeavor, Kobayashi discloses the sender is further configured to receive a trigger to send an upload request before sending the upload request, and wherein the sender is configured to send the upload request in response to the trigger independent of interaction from a user of the sender ([0178], lines 1-6).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of McDonnell, Brown, and Son with the teachings of Kobayashi in order to incorporate multiple files being transferred at a particular time and so that the client/user that is sending the file knows when is the best allotted time to transfer the file.

27. **Claims 21, 22, 43, 44, 78, 79, 100, and 101 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonnell in view of Brown in further view of Son in even further view of Kohno as applied to claims 1, 19, 23, 41, 58, 76, 80, and 98, and in even further view of Anderson (US Pub 2003/2003/0084128 A1, hereinafter Anderson).**

28. With respect to claims 21, 43, 78, and 100, the claims are rejected for the same reasons as claims 1, 19, 23, 41, 58, 76, 80, and 98 above. The combination of McDonnell, Brown, Son, and Kohno does not disclose the sender is capable of receiving a length of the received portion of the content in accordance with a hypertext transfer protocol (HTTP) HEAD technique.

However, in the same field of endeavor, Anderson discloses the sender is configured to receive a length of the received portion of the content in accordance with a hypertext transfer protocol (HTTP) HEAD technique ([0036], lines 9-13, HEAD method is identical to GET method except that the server must not return a message-body in the response).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of McDonnell, Brown, Son, and Kohno with the teachings of Anderson in order to retrieve whatever information is identified by the request uniform resource identifier.

29. With respect to claims 22, the claim is rejected for the same reasons as claims 1, 19, and 21, 23, 23, 41, 43, 58, 76, 78, 80, 98, and 100 above. The combination of McDonnell, Brown, Son, and Kohno does not disclose the sender is configured to upload the remaining portion of the content in accordance with one of a HTTP POST or a HTTP PUT technique, wherein the one of the HTTP POST or HTTP PUT technique includes uploading the remaining portion of the content including header information comprising a bit range of the remaining portion of the content.

However, in the same field of endeavor, Anderson discloses the sender is capable of uploading the remaining portion of the content in accordance with one of a HTTP POST and a HTTP PUT technique, wherein the one of the HTTP POST and HTTP PUT technique includes uploading the remaining portion of the content including header information comprising a bit range of the remaining portion of the content ([0036], lines 9-13, POST request identifies the resource that will handle the enclosed entity and PUT request identifies the entity enclosed with the request and must know what uniform resource identifier is intended and not attempt to apply the request to some other resource).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to combine the teachings of McDonnell, Brown, Son, and Kohno with the teachings of Anderson in order to request that the origin server accept the entity enclosed in the request as a new subordinate of the resource identified by the request uniform resource identifier.

Response to Amendment

30. Applicant's arguments are considered moot by Examiner's new grounds of rejections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HO SHIU whose telephone number is (571)270-3810. The examiner can normally be reached on Mon-Thur (8:30am - 4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 12, 2008
HTS

Ho Ting Shiu
Patent Examiner
Art Unit 2157

/Ario Etienne/
Supervisory Patent Examiner, Art Unit 2157